

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SEAN McKEEVER,
Plaintiff,

No. 1:07-cv-632

-v-

HONORABLE PAUL L. MALONEY

DAVE ANDERSON, et al.,
Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

This matter comes before the Court on a Report and Recommendation issued by the magistrate judge. In July 2007, Plaintiff McKeever filed a complaint pursuant to 24 U.S.C. § 1983 alleging violations of his civil rights while he was a pretrial detainee. Plaintiff filed a status report in May 2008 (Dkt. No. 25) in which he stated he expected to be paroled in September 2008. Plaintiff filed a change of address form on September 22, 2008 and a second change of address form on December 11, 2008. The remaining Defendants filed a motion for sanctions and a motion for summary judgment on February 25, 2009. In the motion for sanctions, Defendants requested the Court dismiss the case because of a variety of discovery related problems arising from, among other things, difficulty contacting and locating Plaintiff since December 2008. The motion for sanctions was denied without prejudice in June 2009. (Dkt. No. 59). On February 25, 2009, Plaintiff was ordered to respond to Defendants' motion for summary judgment within 28 days. (Dkt No. 58.) Plaintiff has never filed a response. The Report and Recommendation (R&R), issued June 17, 2009, was returned as undeliverable. Plaintiff has not filed any objections to the R&R.

Even though Plaintiff has not received a copy of the Report and Recommendation, he has been properly served under the Federal Rules of Civil Procedure. As required by statute, the magistrate judge filed the Report and Recommendation with the Court and mailed a copy to Plaintiff

at his last known address. *See* 28 U.S.C. § 636(b)(1)(C) (“the magistrate judge shall file his proposed findings and recommendations under subparagraph (B) with the court and a copy shall forthwith be mailed to all parties.”). Upon placing the Report and Recommendation in the mail to Plaintiff’s last known address, service was complete. Fed. R. Civ. P. 5(b)(2)(C). Plaintiff has a continuing obligation to apprise the Court of his current address. *See* W.D. Mich. L.Civ.R. 41.1 (“Failure of a plaintiff to keep the Court apprised of his current address shall be grounds for dismissal for want of prosecution.”).

After being served with a Report and Recommendation issued by a Magistrate Judge, a party has ten days to file written objections to the proposed findings and recommendations. 28 U.S.C. § 636(b)(1)(C); FED. R. CIV. P. 72(b); *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005). Failure to file an objection results in a waiver of the issue and the issue cannot be appealed. *Id. See also Thomas v. Arn*, 474 U.S. 140, 155 (1985) (upholding the Sixth Circuit’s practice).

Although Plaintiff’s failure to file objections is a sufficient reason to adopt the Report and Recommendation, this Court has reviewed the merits of the report and finds the magistrate judge’s reasoning and conclusions sound.

Accordingly, **IT IS HEREBY ORDERED:**

1. The Report and Recommendation (Dkt. No. 60) is **ADOPTED** as the Court’s opinion;
2. Defendants’ motion (Dkt. No. 55) for summary judgment is **GRANTED**.

Date: July 21, 2009

/s/ Paul L. Maloney
Paul L. Maloney
Chief United States District Judge